

## **RESOLUTION 2005-53**

### **A RESOLUTION CONCERNING COMMISSION RATIFICATION OF THE EXECUTIVE DIRECTOR'S WAIVER OF 68 IAC 5-3-2 AND APPROVAL OF BLUE SKY CASINO, LLC'S PROPOSED FINANCING PACKAGE FOR THE CONSTRUCTION AND OPERATION OF A CASINO IN FRENCH LICK, INDIANA AND FOR THE RESOTRATION OF THE FRENCH LICK SPRINGS RESORT AND WEST BADEN SPRINGS RESORT PURSUANT TO RESOLUTION 2005-24**

The Indiana Gaming Commission (Commission) adopts the following resolution pursuant to the authority granted to it under IC 4-33 and pursuant to 68 IAC 1-2-6.

The Commission has considered the following factors:

1. Pursuant to IC 4-33-4-21, the Commission must review proposed debt transactions to ensure that a riverboat owner's license is not leased or hypothecated, or that money is not loaned or borrowed against the license.
2. In a letter dated September 6, 2005, Blue Sky Casino, LLC and its affiliates ("Blue Sky"), through counsel, requested Commission approval for its proposed financing package for the construction and operation of a casino in French Lick, Indiana and for the restoration of the French Lick Springs Resort and the West Baden Springs Resort.
3. Specifically, according to the documents and information submitted to date by Blue Sky, the Company's proposed financing package anticipates a revolving credit facility of up to \$20 million and a \$250 million private offering of senior secured notes underwritten by Merrill Lynch. The revolver will have a term of five years at a variable interest rate. The notes will have a fixed interest rate and will be issued for a term of 8 years.
4. Additional details relating to Blue Sky's financing package, including but not limited to debt-to-equity ratios and more, have been fully analyzed by the Commission's outside financial analyst, Dr. Charlene Sullivan, who has prepared a confidential summary report containing a positive recommendation for consideration by the Commission and its executive staff.
5. In letters dated September 21, 2005, and September 23, 2005, after analyzing the proposed debt transaction in accordance with the provisions of Resolution 2005-24, Executive Director Ernest Yelton issued a waiver of 68 IAC 5-3-2 such that Blue Sky could proceed with finalizing and executing the proposed financing package without the approval of the full Commission and without satisfying the "two meeting requirement" of 68 IAC 5-3-2(2) and (3).
6. The waiver was granted on the express condition that Blue Sky provide, as soon as practicable, all final information and documentation contemplated by 68 IAC 5-3-2(c) with regard to the proposed financing package for review by Commission staff.
7. Resolution 2005-24 requires that a waiver such as this be reported to the full Commission at the next business meeting held under 68 IAC 2-1-5. Additionally, 68 IAC 5-3-7 requires that such waiver be reported to the Commission in order that it may have the opportunity to direct the Executive Director to take additional or different action.

**NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION,  
THAT THE FOLLOWING RESOLUTION IS ADOPTED:**

**SECTION 1: SCOPE**

This resolution applies to Blue Sky Casino, LLC and its affiliates.

**SECTION 2: DEFINITIONS**

The definitions set forth in IC 4-33-2 and 68 IAC apply to this resolution.

**SECTION 3: RATIFICATION OF THE EXECUTIVE DIRECTOR'S WAIVER OF 68 IAC 5-3-2 AND APPROVAL, PURSUANT TO RESOLUTION 2005-24, OF BLUE SKY'S  
PROPOSED FINANCING PACKAGE.**

The Commission hereby;

**RATIFIES**

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(RATIFIES OR DENIES)

the Executive Director's issuance of a waiver of 68 IAC 5-3-2, pursuant to Resolution 2005-24, permitting Blue Sky to proceed with finalizing and executing the proposed financing package without the approval of the full Commission and without satisfying the "two meeting requirement" of 68 IAC 5-3-2(2) and (3). The Commission's approval is conditioned upon a review of final documentation by Commission staff and a determination by the Executive Director that the financing package does not materially differ from the terms which Blue Sky has presented for approval, as those terms have been outlined herein and in the September 21 and 23 waiver letters. If the Executive Director determines that there has been a material change to the approved financing package, the Executive Director may require Blue Sky to obtain additional approval from the Commission and/or take appropriate disciplinary action seeking a fine against Blue Sky for any willful failure to materially adhere to the stated parameters of the waiver. .

**SECTION 5: EFFECTIVE DATE**

This resolution is effective immediately.

**ADOPTED THIS THE 21st DAY OF SEPTEMBER, 2005.**

THE INDIANA GAMING COMMISSION:

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Harold Calloway, Chair

ATTEST:

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Donald R. Vowels, Secretary